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SUBJECT: BOSNIA: REPORT ON OHCHR FIELD PRESENCE

REF: SECSTATE 73151

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¶1. On May 26, Poloff met with Jasna Dzumhur, the current head of mission for the UN Office of the High Commissioner for Human Rights (OHCHR) in Sarajevo, to discuss the mission's field activities and future plans. The OHCHR office in Bosnia and Herzegovina (BiH) will close on June 30, 2007; it will become only the second office to close down since OHCHR opened its field offices. (Note: The Zagreb office closed in 2002.) Therefore, the primary focus of the BiH office is on phasing out OHCHR's current activities and on establishing a possible follow-on presence in BiH. The office's main areas of activity are: women's rights and gender discrimination, transitional justice, anti-trafficking, treaty compliance reporting and protection of the economic and social rights of vulnerable groups in Bosnian society.

TRANSITION OPTIONS

¶2. Dzumhur is currently considering three possible follow-on options to maintain some kind of field presence after June 2007. They are: (1) transfer the capacities of the office to a new local NGO and/or current NGO partners; (2) establish the position of human rights advisor to the UN country team; and (3) create an independent human rights agency or institute for transitional justice, with OHCHR and the BiH government as joint founders. Dzumhur is leaning towards option 2, as option 1 raises concerns about long-term sustainability and option 3, which is similar to the exit strategy employed in Croatia, may run into funding and administrative difficulties. The main concern about the human rights advisor position, which would be located at UNDP in Sarajevo, is that one person will have limited visibility and capacity to advocate on human rights issues.

WOMEN'S RIGHTS AND GENDER DISCRIMINATION

¶3. OHCHR is currently participating in a joint project with UNDP and Canadian CIDA to assess the implementation of the BiH Law on Gender Equality and to highlight critical gaps. Dzumhur noted that her office has repeatedly expressed concern that there were no women participating in constitutional reform discussions, in police reform discussions or in the Agency for Privatization. OHCHR also focuses on awareness and prevention of sexual harassment and sexual violence.

TRANSITIONAL JUSTICE

¶4. OHCHR's focus in the arena of transitional justice is on victim/witness protection, especially for victims of war crimes and sexual violence testifying in the War Crimes Chamber of the BiH State Court. Dzumhur noted the need to educate judges and empower them to curb abuse of victims and inappropriate conduct by the defense bar. OHCHR has conducted trial monitoring and has, for the last five months, been providing legal assistance to victims of sexual violence who are testifying in State Court. Dzumhur also observed that there are currently no provisions for victim-witness assistance in the lower courts, where a number of war crimes trials are also taking place. OHCHR has also provided assistance to the legal committees drafting the state-level Law on Victims of Torture and the bylaws implementing the state-level Law on Missing Persons.

ANTI-TIP

¶5. OHCHR has also focused their anti-trafficking efforts on victim-witness assistance and legal advocacy for victims. Working with local legal aid NGO Vasa Prava (with USG funding), OHCHR has drafted a comprehensive legal advocacy manual for lawyers who work with TIP victims, covering criminal, civil and immigration/asylum issues. OHCHR also participates in working groups to improve the identification and protection of TIP victims, both foreign and domestic.

TREATY REPORTING

¶6. BiH is a signatory to many international agreements, but often falls short in implementation. OHCHR monitors implementation of international treaty obligations and reports to treaty bodies on BiH's compliance or lack thereof.

PROTECTION OF VULNERABLE GROUPS

¶7. OHCHR has filled an advocacy role with the authorities at
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all levels of government regarding the enforcement of the economic and social rights of vulnerable groups in Bosnian society, including women, children, Roma, people with disabilities, and sexual minorities. OHCHR consulted on the new legislation being developed on victims of sexual violence (specifically in the context of war crimes i.e. where rape was used as a tool of genocide/ethnic cleansing) and on the law on victims of torture (see para 4 above).

COMMENT

¶8. OHCHR is well-respected by government agencies and civil society in BiH, and is valued for its neutrality and professionalism. In Post's opinion, OHCHR has done its best work in the areas of legal advocacy and legislative drafting/reforms. Dzumhur noted that, although the Human Rights Center in Zagreb (the successor institution to OHCHR Zagreb) was eventually established as a Croatian government agency, her former colleagues from Zagreb described the process of setting it up as extremely difficult and time-consuming. As a result of this experience, OHCHR Sarajevo is shying away from this option and towards the human rights advisor position on the UN country team, although Dzumhur is correct to wonder how much influence this advisor could be expected to have. OHCHR does not seem to have much cooperation with BiH's state Ombudsmen or with the Ministry of Human Rights and Refugees outside the legislative drafting process, and if the office were to remain open, we would cite this as an area for improvement.

MCELHANEY